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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)	
9333-360	

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Typed or printed name Scott W. Brim

Application Number	Filed
10/725,294	December 1, 2003
First Named Inventor	
Toru Marumoto et al.	
Art Unit	**Examiner**
2626	Colucci, Michael C.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant/inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71, Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [X] attorney or agent of record. Registration number 51,500.
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

/Scott W. Brim/
Signature

Scott W. Brim
Typed or printed name

3612-321-4200
Telephone number

March 24, 2010
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

[X] *Total of 1 forms are submitted.

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Our Case No. 9333/360

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Toru Marumoto et al.	
Serial No.: 10/725,294	Examiner: Colucci, Michael C
Filing Date: Dec. 1, 2003	Group Art Unit No.: 2626
For: Speech Communication Apparatus	Confirmation No. 2919

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandra, VA 22313-1450

Dear Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reasons stated on the attached sheets. No more than five (5) pages are provided.

REMARKS

I. Introduction

Claims 1-3, 5, 7-11, 13-17 and 21 are pending in the application. In the final Office Action dated Dec. 24, 2009, the Examiner maintained the rejection of claims 1, 3, 5, 7-9, and 21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,732,143 ("Andrea") in view of U.S. Pat. No. 6,563,931 ("Soli") and U.S. Pat. No. 4,420,655 ("Suzuki"); maintained the rejection of claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Andrea in view of Soli, Suzuki, and U.S. Pat. No. 5,544,250 ("Urbanski"); maintained the rejection of claims 10, 11, and 13 under 35 U.S.C. § 103(a) as being unpatentable over Andrea in view of Suzuki and U.S. Pat. No. 5,937,070 ("Todter"); maintained the rejection of claims 14, 15, and 17 under 35 U.S.C. § 103(a) as being unpatentable over Andrea in view of Soli and Todter; and maintained the rejection of claim 16 under 35 U.S.C. § 103(a) as being unpatentable over Andrea in view of Soli, Todter, and Urbanski. Applicants request review of the final rejections.

II. The Proposed Combination Does Not Render Claim 1 Unpatentable

Independent claim 1 recites a speech communication apparatus comprising a received-speech clarifying means for adjusting a gain for a received-speech signal based on a power level of a background sound measured by a background sound measurement means, wherein the received speech signal is transmitted to the speech communication apparatus for output by a speaker and comprises speech that is not received from a user of the speech communication apparatus. In the proposed combination of Andrea, Soli, and Suzuki, the Examiner asserts that Andrea in view of Soli teaches this element. Applicants respectfully disagree.

Andrea is directed to a noise cancelling apparatus. The Examiner asserts that Fig. 2 of Andrea teaches a received-speech clarifying means for adjusting a gain for a received-speech signal to be output by a speaker based on a level of a background sound from an output signal measured by a background sound level measurement means. Specifically, the Examiner asserts that Fig. 2 shows AMP 20 adjusting speech from AMP 16 and from telephone lines via telephone unit 18.

Fig. 2 of Andrea is a block diagram of a noise cancellation apparatus that may be used in a telephone. Generally, Fig. 2 shows a first microphone (mic 12) generating a speech and noise signal and a second microphone (mic 14) generating a noise reference signal. Subtractor 16 subtracts the noise signal from the speech and noise signal, and the resulting speech signal is provided to telephone unit 18. The telephone unit 18 may then transmit the speech signal through a telephone line.

The telephone unit 18 may additionally combine the resulting speech signal with the received speech signal received form the telephone lines and supply the resulting signal to amplifier 20. Andrea states that a user may adjust amplifier 20 to adjust an amplification of a received signal. The resulting signal is then supplied to the speaker 22. (Andreas, Col. 13, lines 8-24). It should be noted that the speech signal supplied to the telephone unit 18 and later to amplifier 20 contains speech only as subtractor 16 removed the noise from the speech and noise signal. Accordingly, it is unclear how amplifier 20 could adjust amplification of a received speech signal received from telephone lines based on noise.

In the Office Action, the Examiner asserts that although not shown in Fig. 2, an operator may use a switch 40 to selectively set amplifier 20. (See Office Action dated Dec. 24, 2009, pages 4-5). Applicants respectfully submit that a user selecting or deselecting an amplifier is not equivalent a communication apparatus that includes a received-speech clarifying means for adjusting a gain for a received-speech signal ***based on a power level of a background sound measured by a background sound measurement means***. A user selecting or deselecting an amplifier is not occurring based on a power level of a background sound measured by a background sound measurement means.

Accordingly, the cited portions of Andrea necessarily do not teach a received-speech clarifying means for adjusting a gain for a received-speech signal to be output by a speaker based on a power level of a background sound from an output signal measured by a background sound level measurement means, wherein the received speech signal is transmitted to the speech communication apparatus for output by a speaker and comprises speech that is not received from a user of the speech communication apparatus.

Soli is directed to an auditory prosthesis for adaptively filtering selected auditory components by user activation and a method for doing the same. The cited portions of Soli teach the use of a microphone that is able to output a primary input signal and a noise reference signal. The primary input signal may then be adjusted based on the noise reference signal. In neither the cited portions of Andrea nor the cited portions of Soli is a communication apparatus adjusting a gain for a received-speech signal that is transmitted to the speech communication apparatus based on a power level of background sound measured at the speech communication apparatus by a module of the speech communication apparatus.

For at least this reason, Andreas and Soli, alone or in combination, do not teach a speech communication apparatus comprising received-speech clarifying means for adjusting a gain for a received-speech signal based on a power level of a background sound measured by a background sound level measurement means, wherein the received speech signal is transmitted to the speech communication apparatus for output by a speaker and comprises speech that is not received from a user of the speech communication apparatus as asserted by the Examiner. For at least this reason, the combinations of Andrea, Soli, Suzuki, and Urbanski contemplated by the Examiner do not render unpatentable independent claim 1 or any claim that depends on claim 1.

III. The Proposed Combinations Do Not Render Claims 8, 10, 14, and 21 Unpatentable

Independent claim 8 generally recites a speech communication apparatus comprising a received speech clarifying filter operable to adjust a gain for received speech to be output by a speaker based on a background sound level, wherein the received speech is transmitted to the speech communication apparatus for output by a speaker and comprises speech that is not received from a user of the speech communication apparatus.

Independent claim 10 generally recites a speech communication apparatus comprising received-speech clarifying means for adjusting a gain for received speech based on a power level of background noise measured by background sound level measurement means, wherein the received speech is transmitted to the speech

communication apparatus for output from the speaker and comprises speech that is not received from a user of the speech communication apparatus.

Independent claim 14 generally recites a speech communication apparatus comprising a received-speech clarifying section operable to adjust a gain for a received speech signal to be outputted by a speaker based on a level of background noise measured by a background sound level measurement calculator, wherein the received speech that is transmitted to the speech communication apparatus to be outputted by the speaker comprises speech that is not received by a user of the speech communication apparatus.

Independent claim 21 generally recites a speech communication apparatus comprising received-speech clarifying means for adjusting a gain for a received-speech signal based on a power level of background sound measured by background sound level measurement means, wherein the received speech signal is transmitted to the speech communication apparatus for output by a speaker and comprises speech that is not received from a user of the speech communication apparatus.

In the rejection of each of independent claims 8, 10, 14, and 21, the Examiner asserts that Andrea in light of Soli teaches each of the above-recited elements. However, as explained above in connection with claim 1, Andrea and Soli, alone or in combination, fail to teach a speech communication apparatus comprising received-speech clarifying means where a gain for a received-speech signal that is transmitted to the apparatus is adjusted based on background sound measured at the apparatus. For at least this reason, the combinations of Andrea, Soli, Suzuki, Urbanski, and Todter proposed by the Examiner necessarily do not render unpatentable independent claims 8, 10, 14, and 21, or any claim that depends on claims 8, 10, 14, or 21.

Respectfully submitted,

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